

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

DIAMONDBACK INDUSTRIES, INC.,

Plaintiff,

vs.

**REPEAT PRECISION, LLC; NCS
MULTISTAGE, LLC; and NCS
MULTISTAGE HOLDINGS, INC.,**

Defendants.

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**CASE NO. 6:19-CV-00034-ADA
(Consolidated with 6:19-CV-00036-ADA)**

AMENDED FINAL JUDGMENT

The Court conducted a bench trial on the merits of this case in January 2020. Following trial, the Court issued its Findings of Fact and Conclusions of Law on March 13, 2020. ECF186. The Court has resolved all pending claims and defenses in this matter and has determined that entry of this Amended Final Judgment is appropriate under Federal Rule of Civil Procedure 58. Therefore, in accordance with this Court’s Findings of Fact and Conclusions of Law entered on March 13, 2020 (ECF186), the Court ORDERS and ADJUDGES as follows:

1. Plaintiff Diamondback Industries, Inc. (“Diamondback”) shall take nothing on its affirmative claims for relief against Defendants. All of Diamondback’s claims and defenses against Defendants are DISMISSED WITH PREJUDICE.

2. Defendant/Counterclaim-Plaintiff Repeat Precision, LLC (“Repeat Precision”) recovers from Diamondback:

a. actual damages in the amount of \$14,323,563;

- b. additional actual damages in the amount of \$2,777,670 relating to Diamondback's infringing sales from January 1, 2020 through March 13, 2020, *see* ECF186 at ¶254;
- c. enhanced damages under 35 U.S.C. §284 in the amount of \$11,356,797; and
- d. exemplary damages in the amount of \$11,488,872 relating to Repeat Precision's claims for tortious interference against Diamondback.

3. The Court GRANTS injunctive and declaratory relief as stated in the Findings of Fact and Conclusions of Law (ECF186), which are expressly incorporated as if fully set forth herein. The Court's permanent injunction takes effect as of April 3, 2020, the date as of which final judgment was entered. The Court hereby expressly retains jurisdiction over this matter to ensure that the Court's Amended Final Judgment is fully and properly implemented.

4. The Court hereby DECLARES as follows:

a. The Patent License Agreement dated March 16, 2018, as amended effective May 30, 2018 (the "License"), grants Repeat Precision the exclusive right to make, have made, use, offer to sell, sell, import or export electric wireline setting tools for well completions that practice U.S. Patent No. 9,810,035 ("the '035 Patent"). That grant of rights under the License is exclusive as to Diamondback as well because the License does not reserve any rights to practice the '035 Patent to Diamondback.

b. Under the License, Diamondback has a contractual obligation to make and sell power charges to Repeat Precision, its customers, and the contractors working with Repeat Precision and its customers that may be used to operate Repeat Precision's disposable setting tools that practice the claims of the '035 Patent.

c. The License grants Repeat Precision an implied, non-exclusive license to make, have made, use, offer to sell, sell, and import power charges that practice U.S. Patent No. 9,453,382 B2 and/or U.S. Patent No. 10,107,054 B2 for use with Licensed Products within the scope of the Licensed Patents under the License.

d. The right of first refusal provision stated in the License remains in effect, and has not been terminated.

5. This Court's Preliminary Injunction dated February 19, 2019 (ECF15) expires by its own terms upon entry of this Amended Final Judgment. Accordingly, the Court hereby directs the Clerk to promptly release the \$25,000 bond payment Repeat Precision made in support of that Preliminary Injunction (ECF21) by making payment directed and deliverable to Repeat Precision.

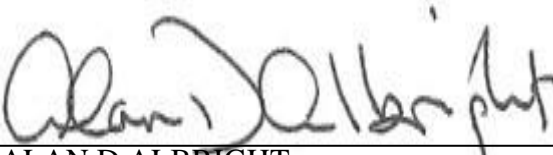
6. Diamondback shall pay post-judgment interest on all amounts awarded in this Amended Final Judgment at the rate of 0.38% per annum.

7. All Defendants are awarded recovery of their costs and reasonable and necessary attorneys' fees in an amount to be determined following entry of this Amended Final Judgment. *See* Fed. R. Civ. P. 54(b); *see also* ECF192 (establishing schedule for submitting claims for costs and fees). The Court is not delaying entry of this Amended Final Judgment pending entry of a determination on the amount of fees and costs due to Defendants. *See* Fed. R. Civ. P. 58(e).

8. All other relief requested by a party is DENIED.

This is the Court's FINAL JUDGMENT.

SIGNED this 13th day of April, 2020.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE